

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JANE KIDD, ANDREA SUAREZ,)	
DR. MURRAY BLUM,)	
and ANN BLUM,)	
)	
Plaintiffs,)	Civil Action
)	
v.)	No. 1:06-CV-0997-BBM
)	(Three-Judge Court)
CATHY COX, in her official)	
capacities as Secretary of State of)	
Georgia and Chair of the State)	
Election Board)	
)	
Defendant)	

JOINT STIPULATION OF FACTS

Plaintiffs and Defendant hereby stipulate and agree that the following facts are true for purposes of this action, without, however, any admission to the relevancy thereof:

1.

Jane Kidd is citizen of the United States and of Georgia, and is a registered voter residing at 410 Hampton Court in Athens-Clarke County, Georgia, in the current Senate District 46, *i.e.*, the district adopted under S.B. 386. Ms. Kidd

currently represents a portion of Athens-Clarke County in the Georgia General Assembly, as she was elected from House District 115. Ms. Kidd possesses all of the requisite qualifications to run for the Georgia State Senate in District 46, and had announced her intention to run for that seat prior to the enactment of S.B. 386. Ms. Kidd has qualified to run for the Democratic Party nomination in Senate District 46. Her residence will remain in S.D. 46 regardless of whether the plan adopted in S.B. 386 or the plan imposed in *Larios v. Cox* is used.

2.

Ms. Andrea Suarez is a citizen of the State of Georgia, is a registered voter and resides at 1067 College Station Road, in Athens-Clarke County. Under S.B. 386, Ms. Suarez's residence is located in S.D. 47. Previously her residence was located in S.D. 46.

3.

Dr. Murray Blum is a citizen of the State of Georgia, is a registered voter and resides at 475 Ponderosa Drive, in Athens-Clarke County. Under S.B. 386, Dr. Blum's residence is located in S.D. 47. Previously his residence was located in S.D. 46.

4.

Ms. Ann Blum is a citizen of the State of Georgia, is a registered voter and resides at 475 Ponderosa Drive, in Athens-Clarke County. Under S.B. 386, Ms. Blum's residence is located in S.D. 47. Previously her residence was located in S.D. 46.

5.

Cathy Cox is the Secretary of State of the State of Georgia, in which capacity she is the Chair of the State Election Board by O.C.G.A. § 21-2-30(d), and has been designated as the Chief Election Official for purposes of the federal Help America Vote Act of 2002 by O.C.G.A. § 21-2-50.2, and also the Chief Election Official for purposes of the National Voter Registration Act of 1993 by O.C.G.A. § 21-2-210.

6.

Article III, Section II, Paragraph II of the Georgia Constitution provides:

The General Assembly shall apportion the Senate and House districts. Such districts shall be composed of contiguous territory. The apportionment of the Senate and House of Representatives shall be changed by the General Assembly as necessary after each United States decennial census.

7.

After the 2000 Census, the Georgia General Assembly enacted redistricting

plans for the Congress, the House of Representative and the Senate. O.C.G.A. § 21-1-2, 2001 Ga. Laws. 2nd Ex. Sess. 335; O.C.G.A. § 28-2-1, 2001 Ga. Laws 2d Ex. Sess. 425; O.C.G.A. § 28-2-2, 2001 Ga. Laws 1st Ex. Sess. 2.

8.

By declaratory judgment of the District Court for the District of Columbia, issued on April 6, 2002, the congressional and House plans were precleared under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c, but preclearance of the Senate plan was denied. *Georgia v. Ashcroft*, 195 F. Supp. 2d 25 (D.D.C. 2002), *vacated and remanded*, 539 U.S. 461 (2003).

9.

During the pendency of the appeal to the U.S. Supreme Court on the denial of preclearance to the Senate plan, the Georgia General Assembly adopted an interim Senate redistricting to be used pending the reversal of the District Court decision in *Georgia v. Ashcroft* and preclearance of the original Senate plan. 2002 Ga. Laws 148.

10.

The 2002 Senate plan was subsequently declared unconstitutional on February 10, 2004, by a three Judge panel of the Northern District of Georgia. *Larios v. Cox*, 300 F. Supp. 2d 1320 (N.D. Ga.) (Three-Judge Court), *aff'd*, 542

U.S. 947 (2004).

11.

The *Larios* Court gave the General Assembly until March 1, 2004, to adopt a new reapportionment statute and the General Assembly failed to do so. *Larios v. Cox*, 306 F. Supp. 2d 1212 (N.D. Ga. 2004) (Three-Judge Court).

12.

The *Larios* Court then appointed former Eleventh Circuit Court of Appeals Judge Joseph W. Hatchett as a Special Master to create Legislative apportionment plans for the State of Georgia. *Id.*

13.

The Special Master developed the plans and, after hearing argument from numerous interested parties regarding the specifics of the plan, on March 24, 2004, this Court entered an order adopting amended versions of the Special Master's plans. The *Larios* Court concluded that the plans complied with one-person/one-vote requirements, the Voting Rights Act and traditional redistricting principles. *Larios v. Cox*, 314 F. Supp. 2d 1357, 1364 (N.D. 2004)(Three-Judge Court). The Senate District plan created by order of this Court is hereinafter referred to as the "*Larios* plan."

14.

There was no substantive appeal to the *Larios* plan, which was then used for the 2004 elections for the Georgia Senate. A copy of the map of the *Larios* plan has been submitted to the Court as Joint Exhibit 1-A.

15.

In the 2004 election for state Senate, Ralph Hudgens, the Republican incumbent in District 47 received 40,504 votes (71.1%) and Democrat Bill Healan received 16,441 votes (28.9%). *See* Secretary of State, Elections Results. (April 29, 2006)

http://www.sos.state.ga.us/elections/election_results/2004_1102/senate.htm.

16.

In the 2004 election for state Senate, Casey Cagle, the Republican incumbent in District 49 received 45,282 votes (100%). *See* Secretary of State, Elections Results. (April 29, 2006)

http://www.sos.state.ga.us/elections/election_results/2004_1102/senate.htm.

17.

In the 2004 election for state Senate, Brian Kemp, the Republican incumbent in District 46 received 29,424 votes (51.6%) and Democrat Becky Vaughn

received 27,617 votes (48.4%). *See* Secretary of State, Elections Results. (April 29, 2006)

http://www.sos.state.ga.us/elections/election_results/2004_1102/senate.htm.

18.

In the 2004 election for state Senate, Brian Kemp, the Republican incumbent in District 46 received 15,043 (41.8%) of the votes cast in Athens-Clarke County and Democrat Becky Vaughn received 20,946 (58.2%) of the votes cast in Athens-Clarke County. *available at*

http://www.athensclarkecounty.com/elections/results_g04.html.

19.

In the 2004 presidential race, in the entire state of Georgia, President George Bush received 1,914,256 votes (58%), Senator John Kerry received 1,366,155 votes (41.4%) and Libertarian candidate Michael Badnarik received 18,387 votes (0.6%). State of Georgia election results, *available at*

http://www.sos.state.ga.us/elections/election_results/2004_1102/federal.htm.

20.

In the 2004 presidential race, President George Bush received 15,052 (40.4%) of the votes cast in Athens-Clarke County. Senator John Kerry received 21,718 (58.3%) of the votes cast in the county and Libertarian candidate Michael

Badnarik received 465 (1.3%) of the votes cast in Athens-Clarke County.

available at http://www.athensclarkecounty.com/elections/results_g04.html; State of Georgia election results, *available at*

http://www.sos.state.ga.us/elections/election_results/2004_1102/federal.htm.

21.

After the 2004 election, Brian Kemp, the current Republican incumbent in District 46, announced that he did not intend to seek re-election in District 46, but instead would run in the statewide election for Agriculture Commissioner.

22.

Representative Jane Kidd defeated Bill Cowsert in 2004 in a race for House District 115, with Ms. Kidd receiving 8,624 votes (56%) and Mr. Cowsert receiving 6,790 votes (44%). *See* Athens-Clarke County Board of Elections (April 29, 2006) http://www.athensclarkecounty.com/elections/results_g04.html.

23.

On the first day of the 2006 Legislative session, January 9, 2006, Senator Ralph Hudgens introduced S.B. 386 in the Senate Reapportionment Committee proposing that 3 of the 56 state Senate Districts be redrawn.

24.

The Senate Reapportionment Committee on January 9, 2006, passed S.B.

386 out of committee with a “Do Pass” recommendation.

25.

S.B. 386 was adopted by the Senate based upon a straight party-line vote of 34 to 22. Every Republican in the State Senate voted in favor of S.B. 386, and each of the 22 Democratic Senators voted against the bill.

26.

The House Reapportionment Committee on January 25, 2006, passed S.B. 386 out of committee with a “Do Pass” recommendation.

27.

S.B. 386 was then adopted by the House of Representatives, without a single dissenting Republican vote. Seventy-nine Democrats voted against S.B. 386 in the House, while only four Democrats voted with the Republicans in favor of the bill.

28.

In summary, S.B. 386 was passed both the Senate and the House of the General Assembly without a single dissenting vote by a Republican.

29.

S.B. 386 was signed into law by Governor Sonny Perdue, on February 28, 2006.

30.

The United States Department of Justice precleared S.B. 386 under Section 5 of the Voting Rights Act on April 20, 2006.

31.

S.B. 386's sponsor, Ralph Hudgens, stated that one of the purposes of S.B. 386 was to place Madison County wholly within S.D. 47.

32.

S.B. 386 alters Senate Districts 46, 47 and 49 by (1) moving a precinct in Madison County from the 46th to the 47th District, thereby making Madison County wholly contained within S.D. 47, (2) splitting Clarke County (which had previously been entirely within District 46), between two districts, Districts 46 and 47, (3) moving Oglethorpe County from S.D. 46 to S.D. 47, (4) moving the portions of Walton County that had been in District 47 into District 46 and (5) making certain changes to the border between SD 49 and SD 47.

33.

A copy of the S.B. 386 Senate district map has been submitted to the Court as Joint Exhibit 3.

34.

S.B. 386 splits an Athens-Clarke County precinct, placing portions of the

precinct in the 46th and 47th Senate districts. This precinct was not split under the *Larios* Court plan and would not be split under the FairMadison plan.

35.

S.B. 386 represents the fourth Senate plan governing Senate districts 46, 47, and 49 since 1999. The second plan had been declared unconstitutional and replaced by the third plan in the *Larios v. Cox* case.

36.

In Georgia, the combination of technology and political data available to legislators and reapportionment plan drafters allows for sophisticated analysis of political performance, so that maps could be drawn and then immediately analyzed politically.

37.

Based upon the 2000 Census, Georgia's population was 8,186,453 persons.

38.

Because there are 56 Senate seats, the ideal population for each Senate District in Georgia is 146,187 people (*i.e.* the total population divided by the number of Senate Districts).

39.

Under the *Larios* Court's Plan for State Senate Districts 46, 47 and 49, the

statistics of the plan are as follows:

District Number	Total Population	Deviation	% Deviation
46	145,476	-711	-0.49%
47	147,129	942	0.64%
49	146,916	729	0.50%

40.

Under the *Larios* Court's Plan, the "absolute overall range" or difference in population between the largest and smallest of the three districts was 1,653 people.

The total deviation from the ideal for the three districts was 1.13%

41.

Under the S.B. 386 plan for State Senate Districts 46, 47 and 49, the statistics of the plan are as follows:

District Number	Total Population	Deviation	% Deviation
46	145,103	-1084	-0.74%
47	146,934	747	0.51%
49	147,484	1,297	0.89%

42.

Under SB 386, the “absolute overall range” or difference in population between the largest and smallest of the three districts is 2,381 people. The total deviation from the ideal for the three districts is 1.63%.

43.

As with all reapportionment plans provided for consideration by the General Assembly, the maps and statistical summary sheets, which have been submitted to the Court as Joint Exhibits 1, 2-A, 2-B, 3-A, 3-B, were available to all legislators during consideration of S.B. 386.

44.

In addition, the maps and statistical summary sheets submitted to the Court as Joint Exhibits 4A, and 4B were available to all members of the House during consideration of S.B. 386.

45.

The technology used by the state of Georgia would have allowed the Legislature to draw a redistricting plan for the Georgia Senate with a deviation of 0 to 1 persons, and make the Senate districts perfectly equal in population had the General Assembly chosen to do so. *See Larios*, 300 F. Supp. 2d at 1320, 1341.

46.

Under the FairMadison plan for State Senate Districts 46, 47 and 49, the statistics of the plan are as follows:

District Number	Total Population	Deviation	% Deviation
46	145,769	-418	-0.29%
47	146,268	81	0.06%
49	147,484	1,297	0.89%

47.

Under the FairMadison plan, introduced in the House Reapportionment Committee, the “absolute overall range” or difference in population between the largest and smallest of the three districts was 1,715 people. The total deviation from the ideal for the three districts was 1.17%.

48.

Under the Fair Madison plan, both Clarke and Madison Counties were wholly contained within single Senate districts.

49.

In reapportionments, Georgia has had a “strong historical preference ... for not splitting counties outside the Atlanta Area, and not splitting precincts,

maintenance of core districts, and recognition of communities of interest.” 300 F. Supp. 2d at 1349 (*quoting Abrams v. Johnson*, 521 U.S. 74 99-100 (1997)).

50.

S.B. 386 splits Athens-Clarke County between two state Senate districts.

51.

Athens-Clarke County is by far the largest metropolitan area in Senate Districts 46 and 47. Geographically Clarke County is the smallest county measured in square miles in Georgia.

52.

Statistics regarding the population of Senate Districts 46, 47 and 49 are demonstrated by Joint Exhibits 1-B, 2-B, 3-B, and 4B submitted to the Court.

53.

Georgia is scheduled to conduct a primary election on July 18, 2006, a general election in November 7, 2006.

54.

Prior to the April 27, 2006 Order of this Court, candidates seeking to run for the General Assembly were required to qualify between 9:00 a.m. on April 24 and 12:00 noon on April 28, 2006.

55.

Attached as Exhibit A are true and correct copies of election results by precinct for the 2004 State Senate Race for the counties in Senate Districts 46, 47 and 49.

56.

Attached as Exhibit B are true and correct copies of election results by precinct for the 2004 Presidential election for the counties in Senate Districts 46, 47 and 49.

57.

Attached as Exhibit C is a true and correct copy of the transcript of the January 9, 2006 Meeting of the Senate Reapportionment Committee.

58.

Attached as Exhibit D is a true and correct copy of the State of Georgia's submission to the United States Department of Justice for preclearance pursuant to Section 5 of the Voting Rights Act.

59.

Attached as Exhibit E is a true and correct copy of the 2004 Republican Political Performance Report prepared by the Legislative Reapportionment Office for all state Senate districts as constituted under the *Larios* plan.

60.

Attached as Exhibit F is a true and correct copy of the 2004 Democratic Political Performance Report prepared by the Legislative Reapportionment Office for all state Senate districts as constituted under the *Larios* plan.

61.

Attached as Exhibit G are true and correct copies of Republican and Democratic Political Performance Reports for Senate districts 46, 47, and 49 under SB 386.

62.

Attached as Exhibit H are true and correct copies of Republican and Democratic Political Performance Reports for Senate districts 46, 47, and 49 under the FairMadison plan.

63.

Attached as Exhibit I is a true and correct listing of the current members of the state Senate and their party membership. Available at http://www.legis.ga.gov/legis/2005_06/senate/senatelist.htm.

64.

Attached as Exhibit J is a true and correct map of the current 2006 Georgia Senate map, including the changes enacted under S.B. 386, and the statistical

summary sheet for that map.

Respectfully submitted this 1st day of May, 2006.

/s/ Emmet J. Bondurant

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